

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

SCOTT A. EDMONDS,

Plaintiff,

v.

ROSE A. SEMPLE and JOHN F. DISALLE,

Defendants.

Civil Action No. 2:22-cv-653

Hon. William S. Stickman IV

Hon. Lisa Pupo Lenihan

ORDER OF COURT

Pro se Plaintiff Scott A. Edmonds (“Plaintiff”) filed suit against John F. DiSalle, President Judge of the Washington County Court of Common Pleas who is presiding over his pending state criminal case, and his current state court appointed counsel Rose A. Semple from the Office of Conflict Counsel. In his Amended Complaint, Plaintiff alleges that these Defendants have denied him a fair and unbiased trial and conspired to deny him his constitutional rights. He requests that this Court order Judge DiSalle to reinstate his right to self-representation and stay his state criminal trial until this case can be adjudicated. (ECF No. 15). Magistrate Judge Lisa Pupo Lenihan issued a Report and Recommendation on July 22, 2022, recommending that the Court dismiss Plaintiff’s Complaint with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim upon which relief can be granted, and that his Motion for a Temporary Restraining Order (ECF No. 6) be denied as moot. (ECF No. 17). Plaintiff was given the opportunity to file objections, and he did so. (ECF No. 18).

After its independent *de novo* review of the entire record and consideration of the pleadings, the Court hereby ADOPTS Magistrate Judge Lenihan’s Report and Recommendation

as its Opinion. The Court hereby OVERULES Plaintiff's objections. It concurs with Magistrate Judge Lenihan's thorough analysis and conclusions of law as to all of Plaintiff's claims, and that dismissal of Plaintiff's claims pursuant to 28 U.S.C. § 1915(e)(2)(B) is appropriate.

AND NOW, this 9th day of August 2022, IT IS HEREBY ORDERED that Plaintiff Scott A. Edmonds's Amended Complaint is DISMISSED WITH PREJUDICE pursuant to 28 U.S.C. § 1915(e)(2)(B). His claims for damages against Defendant John F. DiSalle are dismissed with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(iii) as he has sought relief from a defendant who is immune from suit. Plaintiff's claims for injunctive relief against Defendant John F. DiSalle and his claims against Defendant Rose A. Semple are dismissed with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted.

The Court further holds that amendment would be futile as Plaintiff's claims are barred by settled law, and no additional facts could overcome the deficiencies in his Amended Complaint.¹ See *In re Burlington Coat Factory Sec. Litig.*, 114 F.3d 1410, 1434 (3d Cir.1997) (a court may decide to deny leave to amend for reasons such as undue delay, bad faith, dilatory motive, prejudice, and futility). To the extent Plaintiff seeks to file a Second Amended Complaint to eliminate his claims against Defendant Rose A. Semple as she is no longer his state appointed counsel, and to "better clarify complaints," (ECF No. 19, p. 2), IT IS HEREBY ORDERED that the Motion for Leave to File Amended Complaint (ECF No. 19) IS DENIED.

IT IS FURTHER ORDERED that Plaintiff's Motion for Temporary Restraining Order (ECF No. 17) is DENIED AS MOOT.

¹ "An amendment is futile if it merely restates the same facts as the original complaint in different terms, reasserts a claim on which the court previously ruled, fails to state a legal theory, or could not withstand a motion to dismiss." 3 James Wm. Moore et al., *Moore's Federal Practice* ¶ 15.15 (3d ed. 2021).

The Clerk of Court is directed to mark this CASE CLOSED.

BY THE COURT:

A handwritten signature in black ink, appearing to read "W S Stickman IV", written over a horizontal line.

WILLIAM S. STICKMAN IV
UNITED STATES DISTRICT JUDGE